

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: David Coyle	Team: Team # 5	CCRB Case #: 200614023	<input type="checkbox"/> Force	<input checked="" type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Friday, 10/20/2006 4:14 PM	Location of Incident: Franklin Avenue and Eastern Parkway	Precinct: 71	18 Mo. SOL 4/20/2008	EO SOL 4/20/2008	
Date/Time CV Reported Fri, 10/20/2006 4:19 PM	CV Reported At: CCRB	How CV Reported: Phone	Date/Time Received at CCRB Fri, 10/20/2006 4:19 PM		

Complainant/Victim	Type	Home Address

Subject Officer(s)	Shield	TaxID	Command
1. Officers			071 PCT
2. POM Paul Insauto	14771	930399	071 PCT
3. An officer			071 PCT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Michael Houlihan	01530	919940	071 PCT
2. POM Mark Zajac	20933	931472	071 PCT
3. POM Christopher Kirch	00376	931764	071 PCT
4. POM Noel Jugraj	31578	931753	071 PCT
5. SGT Gregory Abrahams	04441	907684	071 PCT

Officer(s)	Allegation	Investigator Recommendation
A. Officers	Abuse: Officers stopped § 87(2)(b) and an individual known as § 87(2)(b)	
B. POM Paul Insauto	Abuse: Officer Paul Insauto stopped § 87(2)(b)	
C. Officers	Abuse: Officers frisked § 87(2)(b) and an individual known as § 87(2)(b)	
D. POM Paul Insauto	Abuse: Officer Paul Insauto frisked § 87(2)(b)	
E. Officers	Abuse: Officers searched § 87(2)(b) and an individual known as § 87(2)(b)	
F. POM Paul Insauto	Abuse: Officer Paul Insauto searched § 87(2)(b)	
G. POM Paul Insauto	Discourtesy: Officer Paul Insauto spoke obscenely and/or rudely to § 87(2)(b)	
H. An officer	Discourtesy: An officer spoke obscenely and/or rudely to § 87(2)(b)	

Synopsis

§ 87(2)(b) filed his complaint over the phone with the CCRB on October 20, 2006. On October 20, 2006 at approximately 4:14PM, § 87(2)(b) and his friends § 87(2)(b) and an individual known as § 87(2)(b) were in the vicinity of Eastern Parkway and Franklin Avenue in Brooklyn when they were stopped by two unidentified plainclothes officers and PO Paul Insauto (allegations A and B). The unidentified officers frisked and searched § 87(2)(b) and § 87(2)(b) (allegations C and E) while PO Insauto frisked and searched § 87(2)(b) (enclosure D and F). PO Insauto found a knife on § 87(2)(b) and allegedly told § 87(2)(b) to “Shut the fuck up (allegation G).” One of the unidentified officers also told § 87(2)(b) to “Shut the fuck up (allegation H)” before searching § 87(2)(b) (allegation E). The officers arrested § 87(2)(b) and left the scene.

§ 87(2)(g)

This case was assigned to the undersigned investigator on June 8, 2007 after the resignation of former investigator Briana Aguilar-Austin.

Summary of Complaint

§ 87(2)(b)

§ 87(2)(b) (a § 87(2)(b) old black male) gave three statements regarding the incident. They include his initial statement made over the phone to the CCRB on October 20, 2006 (enclosure 3a-3c), a phone statement on November 16, 2006 (enclosure 3d), and an in person statement on December 11, 2006 (enclosure 3e-3i). § 87(2)(g)

On October 20, 2006, at approximately 4:15 PM, § 87(2)(b) and his friends, § 87(2)(b) and an individual known as § 87(2)(b) had left § 87(2)(b) building and were walking down Franklin Avenue in Brooklyn. At the corner of Eastern Parkway and Franklin Avenue, a silverish/tan unmarked Ford, license plate number § 87(2)(e), stopped next to the four males. § 87(2)(b) and his three friends looked towards the vehicle, and then three plainclothes officers emerged. The driver remained in the car. The officers approached the four men and said, “Step back, step back.” The officers moved towards the four teens causing § 87(2)(b) and his friends to step backwards until they were up against the wall of a laundromat. One of the officers, identified by the CCRB as PO Insauto asked, “Do any of you guys have guns or drugs?” § 87(2)(b) described PO Insauto as a Hispanic male, 5’6”-5’7”, husky, with short hair. § 87(2)(b) responding by asking the officer why he thought they had guns or drugs. An unidentified officer then searched § 87(2)(b) while PO Insauto searched § 87(2)(b) and another unidentified officer searched § 87(2)(b). § 87(2)(b) described the officer that searched § 87(2)(b) as a white male, 6’-6’2”, with a fatty muscular build, and no facial hair. § 87(2)(b) stated that § 87(2)(b) later identified this officer as a sergeant, but did not know how he obtained this information. § 87(2)(b) described the officer that searched § 87(2)(b) as a black male.

§ 87(2)(b) and § 87(2)(b) did not say anything to the police officers or object to the search. Each of the officers first patted down § 87(2)(b) friends’ pants’ pockets, patted around their waist and then the officers put their hands into the men’s back pockets of their pants. PO Insauto found a small, 3 ½” pocketknife in § 87(2)(b)’s back pocket. PO Insauto said, “Ah! What’s this? Now shut the fuck up!” § 87(2)(b) responded, “You were searching for guns and drugs!” The white male officer then said, “You know what? You think you’re a lawyer now? Shut the fuck up before you get into this.” § 87(2)(b) responded, “Do you expect for me to assume that you’re a cop?” The white male officer then said, “You know what, now you just got yourself into this.” § 87(2)(b) told the officer, “You’re not going to search me for no reason. You can do that to them if they’re not going to stop you, but you’re not going to search me.” The officer then said, “We’ll see about that.” The officer walked up to § 87(2)(b)

§ 87(2)(b) and reached into his back pocket. § 87(2)(b) replied, "Now that you just did that, I'm going to make a complaint with the CCRB."

The three officers walked back to the unmarked car. § 87(2)(b) snapped a photo of the unmarked car's license plate with his camera phone before the officers drove away. § 87(2)(b) went into a nearby convenience store to get a drink, when he went back outside, § 87(2)(b) told him that the officers had come back about two minutes after they had left and arrested § 87(2)(b).

§ 87(2)(b) later told § 87(2)(b) that while in the car being brought to the precinct the white male officer said, "I'm not going to be intimidated by your friend. You should've told your friend to shut the fuck up. Now you're into this shit."

§ 87(2)(b) was out in the same area later that night and saw the same group of officers doing the same thing to another male. However, he provided no details regarding that interaction.

§ 87(2)(b) initial statement and phone statement were consistent with his in person statement however he did not mention that he was with § 87(2)(b) and § 87(2)(b) in his initial statement and did not mention § 87(2)(b)'s arrest in either statement. In his first two statements, § 87(2)(b) also did not mention that the officers cursed at him.

Between June 14, 2007 and August 16, 2007, two letters were sent and six phone calls were made to § 87(2)(b) in an attempt to get him to further cooperate with this investigation and schedule a photo array viewing, § 87(2)(g).

§ 87(2)(b) never responded to any of the CCRB's contact attempts. None of the letters were returned by the United States Postal Service. In addition § 87(2)(b) missed his first scheduled appointment.

Results of Investigation

Victim Statements

§ 87(2)(b)

§ 87(2)(b) (a § 87(2)(b) male § 87(2)(b)) gave a phone statement to the CCRB on February 1, 2007 (enclosure 4a).

On October 20, 2006, § 87(2)(b) was leaving § 87(2)(b) and came upon some of his friends, § 87(2)(b) and § 87(2)(b) aka § 87(2)(b) on Franklin Avenue and Eastern Parkway in Brooklyn, coming out of a convenience store. Three officers pulled up in an olive green unmarked vehicle and jumped out of the car. PO Insauto said to § 87(2)(b) "Hey you, don't go nowhere, don't go nowhere." § 87(2)(b) described PO Insauto as a Hispanic or Italian male, stocky, with slicked back black hair. § 87(2)(b) asked the officer what had happened and PO Insauto responded, "Just come to the side." PO Insauto started searching § 87(2)(b) putting his hands over his clothing and searching through his pockets. While § 87(2)(b) identified PO Insauto as the officer who searched him, the investigator determined that the officer who searched § 87(2)(b) was one of the unidentified officers. Two unidentified officers were searching § 87(2)(b) and § 87(2)(b). § 87(2)(b) described one of the officers as a stocky white male and the other officer as a skinny white male. § 87(2)(b) said to the officers, "You can't search me because you have no cause!" PO Insauto found a knife on § 87(2)(b) but § 87(2)(b) does not remember where they found the knife on his body. PO Insauto said, "What's this asshole? What's this?" PO Insauto took the knife and told § 87(2)(b) "Get out of here, get out of here."

The officers got back into the car and drove away. § 87(2)(b) and § 87(2)(b) then went into a store. About five minutes later, the officers drove back around and pulled up to the three friends. The officers got out of the car, handcuffed § 87(2)(b) put § 87(2)(b) in the car and drove away. The officers did not say anything to § 87(2)(b) or § 87(2)(b).

Between November 7, 2007 and November 13, 2007, four phone calls and two letters were sent to § 87(2)(b) in an attempt to gain his further cooperation with the case. On November 9, 2007, the undersigned investigator left a message with § 87(2)(b) mother. § 87(2)(b) has failed to

respond to any of the CCRB's contact attempts. None of the letters sent to § 87(2)(b) have been returned by the United States Postal Service.

Contact Attempts

§ 87(2)(b) never provided any contact information or a last name for § 87(2)(b) and with the lack of police paperwork identifying § 87(2)(b) the CCRB was unable to contact him. Between January 2, 2007 and September 21, 2007, six letters were sent to § 87(2)(b)'s address, none of which were returned to the CCRB. § 87(2)(b) never provided a phone number for § 87(2)(b) and a Lexis Nexis search revealed no phone number for § 87(2)(b). An October 23, 2007 search of Coles revealed a phone number registered to Granville Barrett and Marcia Barrett at § 87(2)(b)'s listed apartment. Five calls were placed to the listed number. § 87(2)(b) has not responded to any of the CCRB's contact attempts.

A November 8, 2007 search of the Department of Corrections inmate locator revealed that neither § 87(2)(b) nor § 87(2)(b) nor § 87(2)(b) were incarcerated.

Officer Statement

PO Paul Insauto

Memo Book

PO Insauto's memo book (enclosure 5a-5b) at 4:25PM notes, "Male stopped c/o franklin/Eastern." At 4:30PM, "One under § 87(2)(b)

Complaint Report

The narrative of the complaint report number § 87(2)(b) (enclosure 5c-5e) states, "At tpo A/O observed deft in possession of a knife in public view." The supervisor approving was Sgt. Abraham.

Arrest Report

Arrest report number § 87(2)(b) (enclosure 5f-5g) was consistent with the complaint report. § 87(2)(b) was charged with a local violation.

Property Voucher

Property voucher § 87(2)(b) (enclosure 5h) was prepared for one "knife black/grey."

CCRB Statement

PO Paul Insauto was interviewed at the CCRB on January 16, 2007 (enclosure 5i-5j). PO Insauto is a white male, 5'8", 195lbs, with black hair and brown eyes. On October 20, 2006, PO Insauto worked 11:00AM to 7:35PM. He was assigned to the SNEU Team, but was not sure which officers were present that day. He was in unmarked vehicle #290, a green Crown Victoria with tinted windows, or 884, a black Chevy Impala.

PO Insauto stated that the location at which the incident took place is a drug prone location and stated he had been to the location before. The owner of the small convenience store near the corner of Franklin Avenue and Eastern Parkway has asked officers to pass by the location in order to deter drug activity.

PO Insauto was in the back seat of an unmarked vehicle with three other officers. The officers stopped the vehicle at the corner of Franklin Avenue and Eastern Parkway because there was a group of about 10 to 15 kids in the vicinity of the small grocery store. PO Insauto exited the vehicle first, then heard the other officers behind him exit the vehicle. PO Insauto told the group to disperse. PO Insauto noticed an individual, later identified as § 87(2)(b) to his right. § 87(2)(b) was standing alone, apart from the other kids. PO Insauto noticed that § 87(2)(b) had the clip for a gravity knife in his front jeans pocket with

a knife sticking out about 1" to 1 ½" inches from his pocket. The knife had a blade that flips back into the handle. PO Insauto approached § 87(2)(b) and asked to speak to him. PO Insauto took the knife out of § 87(2)(b)'s pocket and said, "What's this for?" § 87(2)(b) responded, "I use it for protection." PO Insauto placed § 87(2)(b) in handcuffs and frisked him. § 87(2)(b) did not say anything or resist in any way. Someone, PO Insauto could not see whom or tell where the individual was, was swearing and yelling, saying, "Look what they're doing! Come! They're arresting him!" By that point, almost everyone on the corner had dispersed.

§ 87(2)(b) was put into either another vehicle or PO Insauto's police vehicle. The officers left the location and drove around the block. The officers drove slowly by the location once more in order to look for the person who had been yelling and make sure the kids in front of the store had not returned.

PO Insauto does not remember seeing any of the officers he was with speak directly to any other people in the vicinity of the incident. PO Insauto did not hear any of the officers say "shut the fuck up" or "fuck off." He also did not see any of the other officers stop, frisk or search any of the other people in the crowd.

Sgt. Gregory Abrahams

On April 24, 2007, Sgt. Gregory Abrahams was interviewed at the CCRB (enclosure 6a-6b). Sgt. Abrahams is a black male, 5'10", and 200lbs. On the date of the incident, Sgt. Gregory Abrahams was assigned as SNEU Supervisor. He worked a 10:30 AM to 7:27 PM tour and worked a tour after that from 7:30PM to 4:27 AM. During the latter tour, Sgt. Abrahams was working "Hot Spot." Sgt. Abrahams was on duty but does not remember if he was in uniform. Sgt. Abrahams did not remember who he was working with but after reviewing the roll call, confirmed that Officer Michael Houlihan, Officer Christopher Kirch, Officer Noel Jugraj, Officer Paul Insauto and Officer Mark Zajac were members of the SNEU team that day. However, he does not remember working directly with them that day. Sgt. Abrahams was assigned to a motor vehicle, but did remember definitively if that vehicle was marked or unmarked. Sgt. Abrahams stated that he did not have any entries in his memo book regarding this incident.

On October 20, 2006, Sergeant Gregory Abrahams worked two tours, and believes that because he was scheduled to work 7:30 PM to 4:27 AM, he was most likely within the 71st Precinct, doing administrative duties at the time of the incident. Sgt. Abrahams did not remember supervising the arrest of § 87(2)(b) although his name is on the UF-61 report. Sgt. Abrahams stated that because he was the SNEU supervisor, most likely whoever filled out the paperwork simply put his name on the report. Sgt. Abrahams testified that he was not present for the arrest.

PO Noel Jugraj

Memo Book

PO Jugraj's memo book (enclosure 7a-7b) at 10:55AM notes "P.F.D. Adm/@ S/H."

CCRB Statement

PO Noel Jugraj was interviewed at the CCRB on April 3, 2007 (enclosure 7c-7d). PO Jugraj is an Asian male, 6'2", and 210lbs. On the date of the incident, PO Jugraj worked from 10:55 AM on October 20, 2006 to 4:05 AM on October 21, 2006. PO Jugraj was assigned to the SNEU Team, administrative duties during his first tour, 10:55 AM to 7:30 PM. PO Jugraj did not remember if he was in uniform. He was within the 71st Precinct throughout that tour. During the second tour, 7:30 PM to 4:05 AM, PO Jugraj was assigned to "Hot Spot" and was in uniform. During his second tour, PO Jugraj was assigned to an unmarked vehicle.

On October 20, 2006, PO Noel Jugraj was assigned to SNEU Team administrative duties within the 71st Precinct stationhouse. PO Jugraj was at the 71st Precinct for the entirety of his tour.

PO Michael Houlihan

Memo Book

PO Houlihan's memo book (enclosure 8a-8b) at 10:55AM notes, "PFD ADMIN."

CCRB Statement

PO Michael Houlihan was interviewed at the CCRB on May 4, 2007 (enclosure 8c-8d). PO Houlihan is a white male, 5'9", and 240lbs. On the date of the incident, PO Houlihan worked a double-tour on October 20, 2006. He worked from 10:55 AM to 7:30 PM, then 7:30 PM to 4:05 AM. PO Houlihan was assigned to the SNEU Team, administrative duties. PO Houlihan did not know if he was in uniform. PO Houlihan did not leave the station house at any point during his first tour and was not involved in § 87(2)(b)'s arrest.

PO Mark Zajac

PO Mark Zajac was interviewed at the CCRB on May 10, 2007 (enclosure 9a-9d). PO Zajac is a white male, 6'0", and 195lbs. PO Mark Zajac was assigned to the SNEU Team on October 20, 2006. He worked a 10:55 AM to 7:30 PM tour. He did not remember if he was in uniform or plain-clothes, or if he was assigned to a motor vehicle or on foot. PO Zajac did not have any entries in his memo book regarding this incident.

On October 20, 2006, PO Zajac was assigned to the SNEU Team. He did not remember interacting with § 87(2)(b). The name § 87(2)(b) sounded familiar to PO Zajac, however he did not remember how he knew the name. PO Zajac has been to the corner of Franklin Avenue and Eastern Parkway before, as it is a known drug-prone location. PO Zajac did not remember working with PO Paul Insauto that day, the arresting officer of § 87(2)(b) and did not remember if he was working within the 71st Precinct stationhouse during that tour or whether he was out in the field.

PO Christopher Kirch

On October 4, 2007, PO Christopher Kirch was interviewed at the CCRB (enclosure 10a-10b). PO Kirch is a white male, 5'10", and 275lbs. PO Kirch did not know the tour he worked the day in question. PO Kirch was assigned to SNEU. PO Kirch could not recall his partner for the day but stated it would have been members of the SNEU team. PO Kirch was not sure if he was dressed in uniform and was not sure if he was assigned to a vehicle. PO Kirch did not recall the incident.

Police Documents

Command Log

The command log (enclosure 11a) for the 71st Precinct from October 20, 2006 at 4:35PM notes that PO Insauto was § 87(2)(b)'s arresting officer. § 87(2)(b)'s condition was normal.

Roll Call

The tour two roll call (enclosure 11b-11e) for the 71st Precinct notes that PO Houlihan, PO Zajac, PO Kirch, PO Jugraj, and PO Insauto all were assigned to SNEU and worked from 10:55AM to 7:30PM. Sgt. Abrahams was assigned to SNEU and worked from 10:30AM to 7:27PM.

Stop, Question, and Frisk Reports

A request to the 71st Precinct for stop and frisk reports from the incident was returned with negative results (enclosure 15d-15e).

Fleet Services

A Fleet Services request found that license plate number § 87(2)(e) is registered to Queens South Anti Crime and is a black Ford (enclosure 11f).

Criminal History of Civilians

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Disposition of Arrest

§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]
§ 87(2)(b) [§§ 86(1)(3)&(4)] [§ 87(2)(c)]

Substantiated CCRB Allegations which resulted in the Imposition of Discipline

PO Insauto has had no CCRB allegations substantiated in his 5 year tenure (enclosure 1a).

Civilian Complaint History

§ 87(2)(b) appears as a complainant and § 87(2)(b) appears as a witness in CCRB case number § 87(2)(b) § 87(2)(b) does not appear in any other CCRB cases (enclosure 2c).

Conclusions and Recommendations

Allegations Not Pleaded

§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

Officer Identification

PO Insauto admitted to stopping, frisking, and retrieving § 87(2)(b)'s knife. § 87(2)(g)
§ 87(2)(g)

PO Insauto did not remember who his partners were and none of the officers remembered the incident. Furthermore several of the officers stated that they were in the stationhouse at the time of the incident. The civilians did not provide further cooperation and thus the CCRB was unable to schedule them for photo array viewings. § 87(2)(g)
§ 87(2)(b) stated that one of the officers with PO Insauto was a white male and the other officer was a black male, while § 87(2)(b) stated that the officers with PO Insauto were both white males. § 87(2)(g)
§ 87(2)(g)
§ 87(2)(g)

§ 87(2)(g)

Undisputed Facts

It is undisputed that PO Insauto stopped § 87(2)(b) found a knife on him, and arrested him.

Disputed Facts

§ 87(2)(g)

Assessment of the Evidence

§ 87(2)(g)

Allegation A: Officers stopped § 87(2)(b) **and** § 87(2)(b)

Allegation C: Officers frisked § 87(2)(b) **and** § 87(2)(b)

Allegation E: Officers searched § 87(2)(b) **and** § 87(2)(b)

Allegation H: An officer spoke obscenely and/or rudely to § 87(2)(b)

§ 87(2)(g)

Allegation B: PO Paul Insauto stopped § 87(2)(b)

Allegation D: PO Paul Insauto frisked § 87(2)(b)

Allegation F: PO Paul Insauto searched § 87(2)(b)

§ 87(2)(b) alleged that PO Insauto stopped, frisked, and searched § 87(2)(b) eventually finding § 87(2)(b)'s knife in his back pocket. PO Insauto explained that he had observed § 87(2)(b)'s knife in his front pant pocket before conducting any frisk or search. § 87(2)(g)

Allegation G: PO Paul Insauto spoke obscenely and/or rudely to § 87(2)(b)

§ 87(2)(b) alleged that PO Insauto told him to “shut the fuck up.” PO Insauto denied the allegation § 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

Investigator:

Date:

Supervisor:

Date:

Reviewed by:

Date:

Reviewed by:

Date: